

practice kicks (and throw-ins). The string rotates around a fixed post 46. Combining the references is not suggested by any of them and contradicts fundamental parts. Moore claims the ball holding strap structure and stretch portions thereof to accommodate different ball sizes and has a firm connection of line 5 to a ring that holds strap ends together while Schachner and Schachner's plastic insert 20 sewn into the football between bladder and 'pigskin' covering as an essential part of his plan with a protruding ring as a claimed and essential feature. Sowards provides a spiral tie-down stake with protruding handle but only in context of a ball kicked directly over the stake with no extensible tether line.

Reconstruction of four references of different designs and goals to meet the herein claimed invention must be tested under proper section 103 tests of scope and content of prior art, differences from the claimed invention and skill of the art, with technical/commercial success factors evaluated as appropriate.

This application has been challenged by several Examiners applying diverse references in a variety of combinations (several subsequently withdrawn). The differences between the invention and the prior art are in the combination of features (with a minimum of four references needed to lay out a buffet of the features before combining) and in execution of such features for the combination. The skill of the art must be rated at the low end of the spectrum as is observable from the range of prior art in this case and extant commercial products. The present invention has met with critical and commercial success as shown in the Rule 132 Declaration submitted with Response B'. Extant products based on some prior art patents in this case have failed to meet a need fulfilled by the present invention, as is also shown in the declaration.

No prima facie case was made by a buffet selection of four references and even if such a case were assumed, it is overcome by the declaration's showing of prior art shortcomings and success of the present invention. The declaration was rendered before Moore was installed as the principal reference in the 31 July action, but the action admits that Moore per se does not anticipate the invention and relies on secondary references

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Ainscough, Sowards and Schachner all of which were dealt with in the declaration.

Allowance of claims 7-11 is requested.


If any questions remain, please call Applicants' attorney, collect, at the number given above. If any sums are due on account of claims adjustment(s), please charge Deposit Account No. 03-2410, order 11714 P02.

Respectfully submitted,

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